



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 24, 2005

Ms. Patricia E. Carls  
Brown & Carls  
106 East Sixth Street, Suite 550  
Austin, Texas 78701

OR2005-05638

Dear Ms. Carls:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 226922.

The City of Georgetown (the "city"), which you represent, received a request for information related to a specified case number. You state that the city has released some of the responsive information, but you claim that some of the submitted information is excepted from disclosure under sections 552.119 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.119 of the Government Code provides:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119.<sup>1</sup> Under section 552.119, a governmental body must demonstrate, if the documents do not demonstrate on their face, that release of the photograph would endanger the life or physical safety of a peace officer.<sup>2</sup> Furthermore, a photograph of a peace officer cannot be withheld under section 552.119 if (1) the officer is under indictment or charged with an offense by information; (2) the officer is a party in a civil service hearing or a case in arbitration; (3) the photograph is introduced as evidence in a judicial proceeding; or (4) the officer gives written consent to the disclosure.

In this instance, you have not demonstrated, nor is it apparent from our review of the submitted information, that release of the photographs at issue would endanger the life or physical safety of the peace officers depicted. We therefore determine that the city may not withhold the photographs of the officers pursuant to section 552.119 of the Government Code.

Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a)(1)-(3). You must withhold the marked information in Exhibit B under section 552.130. In Exhibit C, you have listed the file names of photographs compiled on the submitted CD that contain license plate numbers and motor vehicle registration information. We have listed additional file names of photographs that contain license plate

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<sup>1</sup>As amended by Act of April 22, 2005, 79th Leg., R.S., S.B. 148, § 1 (effective May 3, 2005).

<sup>2</sup>"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

numbers. Pursuant to section 552.130, the city must withhold those portions of the photographs that reveal Texas license plate numbers and motor vehicle registration information. If the city is unable to redact the portions of the submitted photographs that reveal Texas motor vehicle information, then those photographs must be withheld in their entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

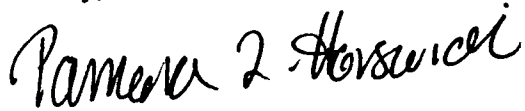
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Tamara L. Harswick". The signature is written in a cursive, flowing style.

Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/sdk

Ref: ID# 226922

Enc. Submitted documents

c: Mr. Al Valdez  
5746 Richmond  
Dallas, Texas 75206  
(w/o enclosures)